

## REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on October 26, 2004, the Examiner rejected claims 1-24. The Examiner appears to have ignored claims 25-31. The original application included a set of method claims numbered 25-31 and it appears these claims have not been considered in this office action. Please see official filing documents for additional reference to these claims. A copy of the stamped postcard indicating the USPTO received an application totaling 25 pages wherein pages 23-24 of the original application included claims 25-31 and are included with this amendment. In addition, a copy of the official fee calculation sheet is also included which shows payment for 31 claims. Applicants request that non-final office action status be preserved in this matter in order to allow the Examiner to properly examine claims 25-31 without issuing a final office action.

### Drawings

- 1) Objection under 37 CFR 1.83(a) – apertures and shoulder transport assembly not shown

Claims 2 and 16 have been cancelled in compliance with Examiner's rejection.

- 2) Objection under 37 CFR 1.83(p)(5) - number 88 not mentioned in specification and number 58 not shown in drawings

The specification has been amended in accordance with Examiner's request.

### Objections under 35 U.S.C. § 112

In the Office Action, the Examiner objected to claims 3, 4, 6, 10, 11, and 14 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and

distinctly claim the subject matter which applicant regards as the invention. The claims have been amended in accordance with Examiner's request.

#### Rejections under 35 U.S.C. § 103

1) In the Office Action, the Examiner rejected claims 15, 17, 18, 21 and 24 under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,976,340 to Bieber et al. Applicants respectfully traverse.

To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation . . . to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP 2142. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. *In re John R. Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992). Any such suggestion must be found in the prior art, and not based on applicants disclosure. *In re Vaeck*, 947 F.2d 488, 493 (Fed. Cir. 1991). A clear and particular showing of the suggestion to combine is required to support an obviousness rejection under Section 103. *Id.* For the reasons set forth below, Applicant submits that the prior art fails both to teach or suggest all the claim limitations, and to clearly and particularly suggest the combination indicated by the Examiner; thus, Applicants claims are not obvious in view of the prior art references.

Bieber does not teach or suggest all of the claim limitations. Claim 15 is directed to a **bag** whereas Bieber illustrates and describes a rigid **case**. The term "bag" implies some form of flexibility in the outer material whereas the term "case", and particularly an "attached case" is

generally considered to have a rigid outer housing. In addition, the term “outer” has been added to claim 15. The first element of claim 15 is now, “an **outer** housing for receiving and retaining a plurality of items”. The location of the pocket assembly 35 in Bieber is on an internal surface. Bieber clearly does not include a pocket member coupled to an outer housing but rather an internal surface. Claims 17, 18, 21 and 24 are dependent from claim 15 and are therefore allowable for at least the same reasons.

2) In the Office Action, the Examiner rejected claim 16 under 35 U.S.C. 103(a) as being unpatentable over Bieber in further view of U.S. Pat. No. 4,978,044 to Silver. Applicants respectfully traverse.

Claim 16 has been cancelled.

3) In the Office Action, the Examiner rejected claims 1-15, 17, 19, 20, 22 and 23 under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,954,170 to Chisholm in view of Bieber. Applicants respectfully traverse.

Chisholm and Bieber do not teach or suggest all of the claim limitations. Claims 1, 8, and 15 all include some form of limitation indicating that the storage receptacle or the pocket closure device is located on an “**outer surface**” or “**outer housing**” of a “bag”. Bieber merely teaches internal biased pockets on a case. The Examiner points out that Chisholm teaches an external zippered pocket and therefore the concept should be combined with the biased pocket taught in Bieber. There is no clear motivation for this combination and an exact combination would not produce a functioning product. The biasing system for the pocket taught in Bieber is configured for an internal pocket and therefore the proposed combination would not work. As

discussed in the background section of the application, a zippered compartment is contrary to the pocket closure device claimed in the application. Therefore, Chisholm teaches away from the proposed combination with Bieber and the cited rejection is improper.

As discussed above, both Chisholm and Bieber teach various “case” configurations whereas claims 1, 8, and 15 are directed to a “bag”. The figures of both Chisholm and Bieber also indicate a substantially rigid case.

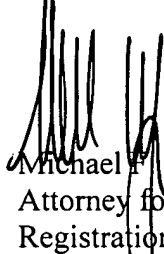
Claims 2-7, 9-14, and 17, 19, 20, 22, and 23 are dependent from claims 1, 8, and 15 and are therefore allowable for at least the same reasons.

### CONCLUSION

Applicants submit that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

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Respectfully submitted,



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25. A method for facilitating retention of and access to items in a bag, said method comprising:

providing a bag having a pocket member with an opening for

receiving and retaining at least one item;

5 coupling to a front panel of said pocket member a first portion of at least one elongate biasing member;

attaching a second portion of said at least one elongate biasing member to said bag, wherein said at least one elongate biasing member provides selective access to an interior of said pocket member.

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26. The method of claim 25, wherein said coupling to said front panel further comprises disposing said at least one elongate biasing member substantially adjacent said front panel member and attaching said first portion of said at least one elongate biasing member to an upper portion of said front panel proximate said opening.

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27. The method of claim 26, wherein said attaching a second portion of said at least one elongate biasing member to said bag further comprises attaching said second portion of said at least one elongate biasing member to a bottom end of said bag substantially beyond said pocket member such that said upper portion of said front panel may be selectively biased with respect to said bag.

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28. The method of claim 25, further comprising attaching a handle element to said biasing member to facilitate leveraging said pocket member to obtain selective access to said interior of said pocket member.

5 29. The method of claim 25, further comprising integrating a grip element into said front panel of said pocket member to facilitate leverage and transport of said bag, said grip element having dimensions sufficient to accommodate a grip of a user.

10 30. The method of claim 25, further comprising coupling to at least one of said bag and said pocket member a guard member proximate an opening to said pocket member, wherein said guard member extends beyond said opening of said pocket member to protect said interior of said pocket member when said pocket member is closed.

15 31. The method of claim 25, further comprising providing apertures in said pocket member to facilitate at least one of cleaning, ventilating and draining said pocket member.